

AMENDED IN SENATE JULY 2, 1999
AMENDED IN ASSEMBLY APRIL 22, 1999
AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1430

Introduced by Assembly Member Bates

February 26, 1999

An act to amend Sections 4059, 4059.5, ~~4070, 4071, and 4072~~ *of and 4070 of, and to add Sections 4059.1 and 4071.1 to*, the Business and Professions Code, and to amend Sections 11164, ~~11167.5~~, 11250, and 11251 of, and to repeal Section 11256 of, the Health and Safety Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1430, as amended, Bates. Prescriptions: electronic transmissions.

(1) Existing law prohibits any person from furnishing any dangerous drug or dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. Dangerous drugs or devices ordered by an entity licensed by the California State Board of Pharmacy must be delivered to the licensed premises and signed for and received by the pharmacist-in-charge or other designated person, as specified. A dangerous drug or dangerous device transferred, sold, or delivered to any person in the state may only be transferred, sold, or delivered to an entity licensed by

the board, to a manufacturer, or to an ultimate user or the ultimate user's agent.

Existing law requires that oral and electronic data transmission of prescriptions be reduced to writing. A person who knowingly violates these provisions is guilty of a misdemeanor.

This bill would revise those provisions to *also exempt from the above-described prohibition the furnishing of dangerous drugs or devices to an optometrist, or to a professional corporation, partnership, or other entity comprised of physicians, dentists, podiatrists, optometrists, or veterinarians who provide services within the scope of their respective licenses*, state that when dangerous drugs or dangerous devices are ordered for an entity licensed by the board ~~and must those drugs or devices are required to~~ be delivered to the licensed *pharmacy premises*, ~~those drugs or devices must be~~ and signed for and received by a ~~pharmacist licensed by the board~~ *pharmacist-in-charge or designee*. The bill would make a ~~similar~~, related change with respect to the delivery of dangerous drugs or dangerous devices to a hospital pharmacy. The bill would also permit a dangerous drug or dangerous device to be transferred, sold, or delivered to an entity authorized by law to possess or handle dangerous drugs or dangerous devices. The bill would also revise the provision limiting the transfer, sale, or delivery of those drugs and devices to ultimate users or their agents, as specified, and make a related change.

The bill would provide that a pharmacy receiving an electronic data or image transmission shall not be required to reduce that prescription to writing or to hard copy form as long as the pharmacy is able to ~~readily~~ *immediately* produce a *specified* hard copy upon request. The bill would also authorize prescribers, *prescriber's agents*, and pharmacists to enter prescriptions and orders, as defined, directly into a pharmacy's or hospital's computer from any location, with permission of the pharmacy or hospital. ~~The bill would similarly permit a prescriber to authorize his or her agent to enter a prescription on his or her behalf directly into a furnisher's computer, with permission of the furnisher.~~ Since these acts may be undertaken only with permission, as



specified, and since a violation of these provisions would be a crime, the bill would create a new crime, thereby imposing a state-mandated local program.

(2) Existing law provides that within 24 hours after any purchaser in this state gives an order for a controlled substance, as specified, to, or makes any contract or agreement for purchases from or sales by, an out-of-state wholesaler or manufacturer of any controlled substance for delivery in this state, the purchaser must forward to the Attorney General a copy of the order, contract, or agreement, as specified.

The bill would delete that provision. The bill would make other related changes.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4059 of the Business and
2 Professions Code is amended to read:

3 4059. (a) No person shall furnish any dangerous
4 drug, except upon the prescription of a physician, dentist,
5 podiatrist, optometrist, or veterinarian. No person shall
6 furnish any dangerous device, except upon the
7 prescription of a physician, dentist, podiatrist,
8 optometrist, or veterinarian.

9 (b) This section shall not apply to the furnishing of any
10 dangerous drug or dangerous device by a manufacturer,
11 wholesaler or pharmacy to each other or to a physician,
12 dentist, podiatrist, *optometrist*, or veterinarian, or—
13 ~~group of those persons organized for the purpose of~~
14 ~~providing services within the scope of their respective~~
15 ~~licenses, or to a~~ *to a* laboratory under sales and purchase
16 records that correctly give the date, the names and



1 addresses of the supplier and the buyer, the drug or
2 device and its quantity. This section shall not apply to the
3 furnishing of any dangerous device by a manufacturer,
4 wholesaler, or pharmacy to a physical therapist acting
5 within the scope of his or her license under sales and
6 purchase records that correctly provide the date the
7 device is provided, the names and addresses of the
8 supplier and the buyer, and a description of the device
9 and the quantity supplied.

10 (c) A pharmacist, or a person exempted pursuant to
11 Section 4054, may distribute dangerous drugs and
12 dangerous devices directly to dialysis patients pursuant to
13 regulations adopted by the board. The board shall adopt
14 any regulations as are necessary to ensure the safe
15 distribution of these drugs and devices to dialysis patients
16 without interruption thereof. A person who violates a
17 regulation adopted pursuant to this subdivision shall be
18 liable upon order of the board to surrender his or her
19 personal license. These penalties shall be in addition to
20 penalties that may be imposed pursuant to Section 4301.
21 If the board finds any dialysis drugs or devices distributed
22 pursuant to this subdivision to be ineffective or unsafe for
23 the intended use, the board may institute immediate
24 recall of any or all of the drugs or devices distributed to
25 individual patients.

26 (d) Home dialysis patients who receive any drugs or
27 devices pursuant to subdivision (c) shall have completed
28 a full course of home training given by a dialysis center
29 licensed by the State Department of Health Services. The
30 physician prescribing the dialysis products shall submit
31 proof satisfactory to the manufacturer or wholesaler that
32 the patient has completed the program.

33 (e) A pharmacist may furnish a dangerous drug
34 authorized for use pursuant to Section 2620.3 to a physical
35 therapist or may furnish topical pharmaceutical agents
36 authorized for use pursuant to paragraph (5) of
37 subdivision (a) of Section 3041 to an optometrist. A record
38 containing the date, name and address of the buyer, and
39 name and quantity of the drug shall be maintained. This



1 subdivision shall not be construed to authorize the
2 furnishing of a controlled substance.

3 (f) A medical device retailer shall dispense, furnish,
4 transfer, or sell a dangerous device only to another
5 medical device retailer, a pharmacy, a physician, a
6 licensed health care facility, a licensed physical therapist,
7 or a patient or his or her personal representative.

8 (g) A pharmacist may furnish
9 electroneuromyographic needle electrodes or
10 hypodermic needles used for the purpose of placing wire
11 electrodes for kinesiological electromyographic testing to
12 physical therapists who are certified by the Physical
13 Therapy Examining Committee of California to perform
14 tissue penetration in accordance with Section 2620.5.

15 (h) Nothing in this section shall be construed as
16 permitting a licensed physical therapist to dispense or
17 furnish a dangerous device without a prescription of a
18 physician, dentist, podiatrist, or veterinarian.

19 (i) A veterinary food-animal drug retailer shall
20 dispense, furnish, transfer, or sell veterinary food-animal
21 drugs only to another veterinary food-animal drug
22 retailer, a pharmacy, a veterinarian, or to a veterinarian's
23 client pursuant to a prescription from the veterinarian for
24 food-producing animals.

25 SEC. 2. *Section 4059.1 is added to the Business and*
26 *Professions Code, to read:*

27 *4059.1. (a) Notwithstanding subdivision (a) of*
28 *Section 4059, a dangerous drug or device may be*
29 *furnished without a prescription to a professional*
30 *corporation, partnership, or other entity comprised of*
31 *physicians, dentists, podiatrists, optometrists, or*
32 *veterinarians who provide services authorized by the*
33 *scope of their respective licenses if all of the following*
34 *conditions are met:*

35 *(1) The shipping and inventory records contain the*
36 *name and address of the professional corporation,*
37 *partnership, or other entity, and the name, license*
38 *category, license number, and if controlled substances*
39 *are furnished, the federal controlled substance registry*
40 *number of a corporate officer, partner, or other entity*



1 member who is licensed to practice the profession for
 2 which the corporation, partnership, or entity is
 3 organized.

4 (2) The dangerous drug or device is shipped or
 5 delivered to the address from which the licensees of the
 6 professional corporation, partnership, or other entity
 7 provide professional services for dispensing or
 8 administration to patients who are receiving treatment.

9 (3) There are written policies and procedures for
 10 tracking and securing the inventories of the dangerous
 11 drugs or dangerous devices.

12 (4) A person authorized by the professional
 13 corporation, partnership, or other entity to receive the
 14 dangerous drug or dangerous device signs for the receipt
 15 of the drug or device.

16 (b) All records of acquisitions or dispositions of
 17 dangerous drugs or dangerous devices by a professional
 18 corporation, partnership, or other entity comprised of
 19 physicians, dentists, podiatrists, optometrists, or
 20 veterinarians who provide services authorized by the
 21 scope of their respective licenses shall be at all times
 22 during business hours open to inspection by authorized
 23 officers of the law, and shall be preserved for at least three
 24 years from the date of making. A current inventory of
 25 dangerous drugs and dangerous devices shall be kept by
 26 a professional corporation, partnership, or other entity
 27 comprised of physicians, dentists, podiatrists,
 28 optometrists, or veterinarians who provide services
 29 authorized by the scope of their respective licenses.

30 (c) This section shall not be construed to affect Section
 31 2400.

32 SEC. 3. Section 4059.5 of the Business and Professions
 33 Code is amended to read:

34 4059.5. (a) Except as otherwise provided by law,
 35 when dangerous drugs or dangerous devices are ordered
 36 for an entity licensed by the board ~~and must be delivered~~
 37 ~~to the licensed premises, those drugs or devices must be~~
 38 ~~signed for and received by a pharmacist licensed by the~~
 39 ~~board~~ those drugs or devices shall be delivered to the
 40 licensed pharmacy premises and signed for and received



1 *by the pharmacist-in-charge or a pharmacist designated*
2 *in writing by the pharmacist-in-charge.* Where a licensee
3 is permitted to operate through an exemptee, the
4 exemptee may sign for and receive the delivery.

5 (b) A dangerous drug or dangerous device
6 transferred, sold, or delivered to any person within this
7 state shall be transferred, sold, or delivered only to an
8 entity licensed by the board, to a manufacturer, an entity
9 authorized by law to possess or handle dangerous drugs
10 or dangerous devices, or as provided by Section 4059 to an
11 ultimate user or the ultimate user's agent.

12 (c) Notwithstanding subdivisions (a) and (b),
13 deliveries to a hospital pharmacy may be made to a
14 central receiving location within the hospital. However,
15 the dangerous drugs or dangerous devices shall be
16 delivered to the licensed pharmacy premises within one
17 working day following receipt by the hospital, and a
18 ~~licensed~~ pharmacist on duty at that time, *who has been*
19 *designated in writing by the pharmacist-in-charge,* shall
20 immediately inventory the drugs or devices.

21 (d) Notwithstanding any other provision of law, a
22 dangerous drug or dangerous device may be ordered by
23 and provided to a manufacturer, or physician, dentist,
24 podiatrist, optometrist, veterinarian, or laboratory, or a
25 physical therapist acting within the scope of his or her
26 ~~license, or any group of those persons organized for the~~
27 ~~purpose of providing services within the scope of their~~
28 ~~respective licenses. Any person or entity receiving~~
29 ~~delivery of any dangerous drugs or devices, or a duly~~
30 ~~authorized representative of the person or entity, shall~~
31 *license. Any person receiving delivery of any dangerous*
32 *drugs or dangerous devices, or a duly authorized*
33 *representative of the person, shall sign for the receipt of*
34 the dangerous drugs or dangerous devices.

35 (e) A dangerous drug or dangerous device shall not be
36 transferred, sold, or delivered to any person outside this
37 state, whether foreign or domestic, unless the transferor,
38 seller, or deliverer does so in compliance with the laws of
39 this state and of the United States and of the state or
40 country to which the drugs or devices are to be



1 transferred, sold, or delivered. Compliance with the laws
2 of this state and the United States and of the state or
3 country to which the drugs or devices are to be delivered
4 shall include, but not be limited to, determining that the
5 recipient of the drugs or devices is authorized by law to
6 receive the drugs or devices.

7 ~~SEC. 3.~~

8 SEC. 4. Section 4070 of the Business and Professions
9 Code is amended to read:

10 4070. (a) Except as provided in Section 4019, an oral
11 prescription shall as soon as practicable be reduced to
12 writing by the pharmacist and shall be filled by, or under
13 the direction of, a pharmacist. The pharmacist need not
14 reduce to writing the address, telephone number, license
15 classification, federal registry number of the prescriber,
16 or the address of the patient or patients if the information
17 is readily retrievable in the pharmacy. ~~A~~

18 (b) A pharmacy receiving an electronic data or image
19 transmission prescription shall not be required to reduce
20 that prescription to writing or to hard copy form ~~as long~~
21 ~~as the pharmacy is able to readily produce a hard copy~~
22 ~~upon request. Notwithstanding any other provision of~~
23 ~~law, a prescriber, a prescriber's authorized agent, or a~~
24 ~~pharmacist, may enter prescriptions or an "order," as~~
25 ~~defined in Section 4019, directly or indirectly into a~~
26 ~~pharmacy's or hospital's computer from any location with~~
27 ~~the permission of the pharmacy or hospital. Those entries~~
28 ~~for prescriptions shall be considered electronic~~
29 ~~transmission prescriptions. if, for three years from the last~~
30 ~~date of dispensing that prescription, the pharmacy is able,~~
31 ~~upon request by the board, to immediately produce a~~
32 ~~hard copy report that includes for each date of dispensing~~
33 ~~of a dangerous drug pursuant to that prescription all of~~
34 ~~the following:~~

35 (1) *The name and address of the patient or patients.*

36 (2) *The name and quantity of the drug or device*
37 *prescribed and the directions for use.*

38 (3) *The date of issue, the name, address and telephone*
39 *number, license classification and, if a controlled*



1 substance is prescribed, the federal controlled substance
2 registry number of the prescriber.

3 (4) For each dispensing date, the date and quantity
4 dispensed and the identity of the responsible pharmacist.

5 (c) When only recorded and stored electronically, on
6 magnetic media, or in any other computerized form, the
7 hospital's or pharmacy's computer system shall not
8 permit the dangerous drug dispensing information
9 required by this section to be changed, obliterated,
10 destroyed, or disposed of, for the record maintenance
11 period required by law, once a dangerous drug or
12 dangerous device has been dispensed. Once a dangerous
13 drug or dangerous device has been dispensed, if the
14 previously created record is determined to be incorrect,
15 a correcting addition may be made only with the approval
16 of a pharmacist and if the record includes the correction
17 and the date it was made to the record, the identity of the
18 person making the record correction, and the identity of
19 the pharmacist making or approving the correction.

20 (d) When there is probable cause for investigation of
21 a violation of law by a person referred to in Section 125.9
22 or 148, the board may issue a citation and fine pursuant
23 to those sections, when, without reasonable justification,
24 the pharmacy fails, upon reasonable request during the
25 pharmacy's normal business hours, to immediately
26 produce a report of the information required by
27 subdivision (b) that is material to the investigation. The
28 board may issue only one such citation and fine per
29 investigation regardless of the number of prescriptions
30 involved or missing pieces of information.

31 ~~SEC. 4. Section 4071 of the Business and Professions~~
32 ~~Code is amended to read:~~

33 ~~4071. Notwithstanding any other provision of law, a~~
34 ~~prescriber may authorize his or her agent on his or her~~
35 ~~behalf to orally or electronically transmit a prescription~~
36 ~~to the furnisher or to enter a prescription directly or~~
37 ~~indirectly into the furnisher's computer with the~~
38 ~~furnisher's permission. The furnisher shall make a~~
39 ~~reasonable effort to ensure that the person who transmits~~
40 ~~the prescription is authorized to do so and the name of the~~



1 authorized agent of the prescriber who transmits the
2 order shall be recorded and readily retrievable.

3 This section shall not apply to orders for Schedule II
4 controlled substances except as permitted under federal
5 law, including a valid regulation or policy administered
6 by a federal agency.

7 SEC. 5. Section 4072 of the Business and Professions
8 Code is amended to read:

9 4072. (a) Notwithstanding any other provision of
10 law, a pharmacist, registered nurse, licensed vocational
11 nurse, licensed psychiatric technician, or other healing
12 arts licentiate, if so authorized by administrative
13 regulation, who is employed by or serves as a consultant
14 for a licensed skilled nursing, intermediate care, or other
15 health care facility, may orally or electronically transmit
16 to the furnisher a prescription lawfully ordered by a
17 person authorized to prescribe drugs or devices pursuant
18 to Sections 4040 and 4070. The furnisher shall take
19 appropriate steps to determine that the person who
20 transmits the prescription is authorized to do so and shall
21 record the name of the person who transmits the order.
22 This section shall not apply to orders for Schedule II
23 controlled substances except as permitted under federal
24 law, including a valid regulation or policy administered
25 by a federal agency.

26 (b) In enacting this section, the Legislature recognizes
27 and affirms the role of the Department of Health Services
28 in regulating drug order processing requirements for
29 licensed health care facilities as set forth in Title 22 of the
30 California Code of Regulations as they may be amended
31 from time to time.

32 SEC. 5. Section 4071.1 is added to the Business and
33 Professions Code, to read:

34 4071.1. (a) Notwithstanding any other provision of
35 law, a prescriber, a prescriber's authorized agent, or a
36 pharmacist may enter a prescription or an order, as
37 defined in Section 4019, directly or indirectly into a
38 pharmacy's or hospital's computer from any location with
39 the permission of the pharmacy or hospital. For purposes
40 of this section, a "prescriber's authorized agent" is a



1 *person licensed or registered with a state agency or board*
2 *in a health care related field.*

3 *(b) Nothing in this section shall diminish an*
4 *unlicensed health care worker's lawful authority to enter*
5 *orders into a hospital's computer or to enter prescriptions*
6 *into a pharmacy's computer, respectively.*

7 *(c) Before any prescription that has been*
8 *electronically transmitted directly or indirectly into a*
9 *pharmacy's computer may be dispensed, it shall be*
10 *approved by a pharmacist.*

11 SEC. 6. Section 11164 of the Health and Safety Code
12 is amended to read:

13 11164. Except as provided in Section 11167, no person
14 shall prescribe a controlled substance, nor shall any
15 person fill, compound, or dispense such a prescription
16 unless it complies with the requirements of this section.

17 (a) Each *written* prescription for a controlled
18 substance classified in Schedule II shall be wholly written
19 in ink or indelible pencil in the handwriting of the
20 prescriber upon the official prescription form issued by
21 the Department of Justice. Each prescription shall be
22 prepared in triplicate, signed, and dated by the
23 prescriber, and shall contain the name and address of the
24 person for whom the controlled substance is prescribed,
25 the name, quantity, and strength of the controlled
26 substance prescribed, directions for use, and the address,
27 category of professional licensure, and the federal
28 controlled substance registration number of the
29 prescriber. The original and duplicate of the prescription
30 shall be delivered to the pharmacist filling the
31 prescription. The duplicate shall be retained by the
32 pharmacist and the original, properly endorsed by the
33 pharmacist with the name and address of the pharmacy,
34 the pharmacy's state license number, the date the
35 prescription was filled and the signature of the
36 pharmacist, shall be transmitted to the Department of
37 Justice at the end of the month in which the prescription
38 was filled. Upon receipt of an incompletely prepared
39 official prescription form of the Department of Justice,



1 the pharmacist may enter on the face of the prescription
2 the address of the patient.

3 (b) Each prescription for a controlled substance
4 classified in Schedule III, IV, or V, except as authorized
5 by subdivision (c), shall be subject to the following
6 requirements:

7 (1) The prescription shall be signed and dated by the
8 prescriber and shall contain the name of the person for
9 whom the controlled substance is prescribed, the name
10 and quantity of the controlled substance prescribed, and
11 directions for use. With respect to prescriptions for
12 controlled substances classified in Schedules III and IV,
13 the signature, date, and information required by this
14 paragraph shall be wholly written in ink or indelible
15 pencil in the handwriting of the prescriber.

16 (2) In addition, the prescription shall contain the
17 name, address, telephone number, category of
18 professional licensure, and federal controlled substance
19 registration number of the prescriber. The information
20 required by this paragraph shall be either preprinted
21 upon the prescription blank, typewritten, rubber
22 stamped, or printed by hand. Notwithstanding any
23 provision in this section, the prescriber's address,
24 telephone number, category of professional licensure, or
25 federal controlled substances registration number need
26 not appear on the prescription if that information is
27 readily retrievable in the pharmacy.

28 (3) The prescription shall also contain the address of
29 the person for whom the controlled substance is
30 prescribed. If the prescriber does not specify this address
31 on the prescription, the pharmacist filling the
32 prescription or an employee acting under the direction
33 of the pharmacist shall write or type the address on the
34 prescription or maintain this information in a readily
35 retrievable form in the pharmacy.

36 (c) Any controlled substance classified in Schedule III,
37 IV, or V may be dispensed upon an oral or electronically
38 transmitted prescription, which shall be reduced to
39 writing by the pharmacist receiving the prescription or
40 by any other person expressly authorized by provisions of



1 the Business and Professions Code. The date of issue of the
2 prescription and all the information required for a
3 written prescription by subdivision (b) shall be included
4 in the written record of the prescription. The pharmacist
5 need not reduce to writing the address, telephone
6 number, license classification, or federal registry number
7 of the prescriber or the address of the patient if that
8 information is readily retrievable in the pharmacy.
9 Pursuant to authorization of the prescriber, any
10 employee of the prescriber on behalf of the prescriber
11 may orally or electronically transmit a prescription for a
12 controlled substance classified in Schedule III, IV, or V, if
13 in these cases the written record of the prescription
14 required by this subdivision specifies the name of the
15 employee of the prescriber transmitting the prescription.

16 (d) The use of commonly used abbreviations shall not
17 invalidate an otherwise valid prescription.

18 (e) Notwithstanding any provision of subdivisions (b)
19 and (c), prescriptions for a controlled substance classified
20 in Schedule V may be for more than one person in the
21 same family with the same medical need.

22 (f) In addition to the prescriber's record required by
23 Section 11190, any practitioner dispensing a controlled
24 substance classified in Schedule II in accordance with
25 subdivision (b) of Section 11158 shall prepare a written
26 record thereof on the official forms issued by the
27 Department of Justice, pursuant to Section 11161, and
28 shall transmit the original to the Department of Justice in
29 accordance with any rules that the department may
30 adopt for completion and transmittal of the forms.

31 ~~(g) Notwithstanding any provision of this section or~~
32 ~~any other provision of law, a pharmacy receiving an~~
33 ~~electronic data or image transmission prescription shall~~
34 ~~not be required to reduce that prescription to writing or~~
35 ~~to hard copy form as long as the pharmacy is able to~~
36 ~~readily produce a hard copy upon request.~~
37 ~~Notwithstanding any other provision of law, a prescriber,~~
38 ~~a prescriber's authorized agent, or a pharmacist, may~~
39 ~~enter prescriptions or an "order," as defined in Section~~
40 ~~4019 of the Business and Professions Code, directly or~~



~~1 indirectly into a pharmacy's or hospital's computer from
2 any location with the permission of the pharmacy or
3 hospital. Those entries for prescriptions shall be
4 considered electronic transmission prescriptions. This
5 subdivision shall not apply to prescriptions or orders for
6 Schedule II controlled substances except as permitted by
7 federal law, including a valid regulation or policy
8 administered by a federal agency.~~

9 (g) *Notwithstanding any other provision of law, a
10 pharmacy receiving an electronic data or image
11 transmission prescription for a controlled substance
12 classified in Schedule III, IV, or V shall not be required to
13 reduce that prescription to writing or to hard copy form,
14 if for three years from the last date of dispensing that
15 prescription the pharmacy is able, upon request of the
16 board, to immediately produce a hard copy report that
17 includes for each date of dispensing of a dangerous drug
18 pursuant to the prescription all of the following:*

19 *(1) The name and address of the patient or patients.*

20 *(2) The name and quantity of the drug or device
21 prescribed and the directions for use.*

22 *(3) The date of issue, the name, address, telephone
23 number, license classification and, if a controlled
24 substance is prescribed, the federal controlled substance
25 registry number of the prescriber.*

26 *(4) For each dispensing date, the date and quantity
27 dispensed and the identity of the responsible pharmacist.*

28 *(h) When only recorded and stored electronically, on
29 magnetic media, or in any other computerized form, the
30 hospital's or pharmacy's computer system shall not
31 permit the dangerous drug dispensing information
32 required by this section to be changed, obliterated,
33 destroyed or disposed of, for the record maintenance
34 period required by law, once a dangerous drug or
35 dangerous device has been dispensed. Once a dangerous
36 drug or dangerous device has been dispensed, if the
37 previously created record is determined to be incorrect,
38 a correcting addition may be made only with the approval
39 of a pharmacist and if the resulting record includes the
40 correction and the date it was made to the record, the*



1 identity of the person making the record correction and
2 the identity of the pharmacist making or approving the
3 correction.

4 (i) When there is probable cause for investigation of a
5 violation of law by a person referred to in Section 125.9 or
6 148, the board may issue a citation and fine pursuant to
7 those sections, when, without reasonable justification, the
8 pharmacy fails, upon a reasonable request during the
9 pharmacy's normal business hours, to immediately
10 produce a report of the information required by
11 subdivision (b) that is material to the investigation. The
12 board may issue only one such citation and fine per
13 investigation regardless of the number of prescriptions
14 involved or missing pieces of information.

15 (j) Notwithstanding any other provision of law, a
16 prescriber, a prescriber's authorized agent, or a
17 pharmacist, may enter a prescription or an order, as
18 defined in Section 4019 of the Business and Professions
19 Code, directly or indirectly into a pharmacy's or hospital's
20 computer from any location with the permission of the
21 pharmacy or hospital. For purposes of this section, a
22 "prescriber's authorized agent" is a person licensed or
23 registered with a state agency or board in a health care
24 related field.

25 (k) Before any prescription that has been
26 electronically transmitted directly or indirectly into a
27 pharmacy's computer may be dispensed, it shall be
28 approved by a pharmacist.

29 (l) Nothing in this section shall diminish an unlicensed
30 health care worker's lawful authority to enter orders into
31 a hospital's computer when doing so according to the
32 policies, procedures and permission of the hospital or to
33 enter prescriptions into a pharmacy's computer when
34 under the supervision of a pharmacist, respectively.

35 (m) When authorized by federal law or a written
36 exception approved pursuant to Section 1307.03 of Title
37 21 of the Code of Federal Regulations, the California State
38 Board of Pharmacy, the State Department of Health
39 Services, and the Department of Justice shall not
40 unreasonably withhold authorization to transmit



1 *prescriptions or orders, as defined by Section 4019, for*
2 *controlled substances classified in Schedule II.*
3 *Notwithstanding any other provision of law, when*
4 *authorized, electronically transmitted prescriptions and*
5 *orders for controlled substances classified in Schedule II*
6 *shall be subject to this section.*

7 (n) *Nothing in this section shall be construed to*
8 *exempt any pharmacy dispensing Schedule II controlled*
9 *substances pursuant to receiving and storing electronic*
10 *transmission prescriptions from reporting dispensing*
11 *activity as required by Section 11165.*

12 ~~SEC. 7. Section 11167.5 of the Health and Safety Code~~
13 ~~is amended to read:~~

14 ~~11167.5. (a) An order for a controlled substance~~
15 ~~classified in Schedule II in a licensed skilled nursing~~
16 ~~facility, an intermediate care facility, or a licensed home~~
17 ~~health agency providing hospice care may be dispensed~~
18 ~~upon an oral or electronically transmitted prescription.~~
19 ~~Prior to filling the prescription, the pharmacist shall~~
20 ~~reduce an oral prescription to writing in ink or indelible~~
21 ~~pencil in the handwriting of the pharmacist upon an~~
22 ~~official prescription form issued by the Department of~~
23 ~~Justice for that purpose. The prescriptions shall be~~
24 ~~prepared in triplicate and shall contain the date the~~
25 ~~prescription was orally transmitted by the prescriber, the~~
26 ~~name of the person for whom the prescription was~~
27 ~~authorized, the name and address of the licensed facility~~
28 ~~or home health agency providing hospice care in which~~
29 ~~that person is a patient, the name and quantity of the~~
30 ~~controlled substance prescribed, the directions for use,~~
31 ~~and the name, address, category of professional licensure,~~
32 ~~and federal controlled substance registration number of~~
33 ~~the prescriber. The duplicate shall be retained by the~~
34 ~~pharmacist, and the triplicate shall be forwarded to the~~
35 ~~prescriber by the end of the month in which the~~
36 ~~prescription was issued. The original shall be properly~~
37 ~~endorsed by the pharmacist with the pharmacy's state~~
38 ~~license number, the signature of the pharmacist, the~~
39 ~~name and address of the pharmacy, and the signature of~~
40 ~~the person who received the controlled substances for the~~



1 ~~licensed facility or home health agency providing hospice~~
2 ~~care and shall be forwarded by the pharmacist to the~~
3 ~~Department of Justice at the end of the month in which~~
4 ~~the prescription was filled. A skilled nursing facility,~~
5 ~~intermediate care facility, or licensed home health~~
6 ~~agency providing hospice care shall forward to the~~
7 ~~dispensing pharmacist a copy of any signed telephone~~
8 ~~orders, chart orders, or related documentation~~
9 ~~substantiating each oral or electronically transmitted~~
10 ~~prescription transaction under this section. This section~~
11 ~~shall only apply as permitted under federal law, including~~
12 ~~a lawful regulation or policy administered by a federal~~
13 ~~agency.~~

14 ~~(b) For the purposes of this section, “hospice care”~~
15 ~~means interdisciplinary health care which is designed to~~
16 ~~alleviate the physical, emotional, social, and spiritual~~
17 ~~discomforts of an individual who is experiencing the last~~
18 ~~phases of a terminal disease and to provide supportive~~
19 ~~care for the primary care person and the family of the~~
20 ~~patient under hospice care.~~

21 ~~SEC. 8.~~

22 *SEC. 7.* Section 11250 of the Health and Safety Code
23 is amended to read:

24 11250. No prescription is required in the case of the
25 sale of controlled substances at retail in pharmacies by
26 pharmacists to any of the following:

- 27 (a) Physicians.
- 28 (b) Dentists.
- 29 (c) Podiatrists.
- 30 (d) Veterinarians.
- 31 (e) Pharmacists acting within the scope of a project
32 authorized under Article 1 (commencing with Section
33 128125) of Chapter 3 of Part 3 of Division 107, or
34 registered nurses acting within the scope of a project
35 authorized under Article 1 (commencing with Section
36 128125) of Chapter 3 of Part 3 of Division 107, or physician
37 assistants acting within the scope of a project authorized
38 under Article 1 (commencing with Section 128125) of
39 Chapter 3 of Part 3 of Division 107.



1 ~~(f) A group comprised of the persons listed in~~
2 ~~subdivisions (a) to (e), inclusive.~~

3 (f) A professional corporation, partnership, or other
4 entity comprised of physicians, dentists, podiatrist, or
5 veterinarians who provide services authorized by the
6 scope of their respective licenses.

7 In any sale mentioned in this article, there shall be
8 executed any written order that may otherwise be
9 required by federal law relating to the production,
10 importation, exportation, manufacture, compounding,
11 distributing, dispensing, or control of controlled
12 substances.

13 ~~SEC. 9.~~

14 SEC. 8. Section 11251 of the Health and Safety Code
15 is amended to read:

16 11251. No prescription is required in the case of sales
17 at wholesale by pharmacies, jobbers, wholesalers, and
18 manufacturers to any of the following:

19 (a) Pharmacies as defined in the Business and
20 Professions Code.

21 (b) Physicians.

22 (c) Dentists.

23 (d) Podiatrists.

24 (e) Veterinarians.

25 (f) Other jobbers, wholesalers, or manufacturers.

26 (g) Pharmacists acting within the scope of a project
27 authorized under Article 1 (commencing with Section
28 128125) of Chapter 3 of Part 3 of Division 107, or
29 registered nurses acting within the scope of a project
30 authorized under Article 1 (commencing with Section
31 128125) of Chapter 3 of Part 3 of Division 107, or physician
32 assistants acting within the scope of a project authorized
33 under Article 1 (commencing with Section 128125) of
34 Chapter 3 of Part 3 of Division 107.

35 ~~(h) A group comprised of the persons listed in~~
36 ~~subdivisions (b) to (g), inclusive.~~

37 (h) A professional corporation, partnership, or other
38 entity comprised of physicians, dentists, podiatrists, or
39 veterinarians who provide services authorized by the
40 scope of their respective licenses.



1 ~~SEC. 10.~~

2 *SEC. 9.* Section 11256 of the Health and Safety Code
3 is repealed.

4 ~~SEC. 11.~~

5 *SEC. 10.* No reimbursement is required by this act
6 pursuant to Section 6 of Article XIII B of the California
7 Constitution because the only costs that may be incurred
8 by a local agency or school district will be incurred
9 because this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section
12 17556 of the Government Code, or changes the definition
13 of a crime within the meaning of Section 6 of Article
14 XIII B of the California Constitution.

